



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: SPM Manufacturing Corporation

File: B-229844

Date: April 13, 1988

---

### DIGEST

1. Issue raised for the first time in conference comments is not for consideration when it could have been raised in the initial protest.
2. Solicitation for loose-leaf binders is not ambiguous despite alleged discrepancy between specification which refers to optional accessories and schedule of items which does not provide for them since order of precedence clause in solicitation resolves any such inconsistency in favor of the schedule of items.
3. Protester has failed to show how it is prejudiced by alleged ambiguity in specification in view of the contracting officer's consistent agreement with its position regarding dimensions contained in a specification drawing.
4. Protester fails to show that solicitation for loose-leaf binders is ambiguous where, based on a reasonable reading of the solicitation as a whole, there is no discrepancy between the required binder ring size and the approximate dimension given for binder backbone.
5. Protester fails to show that solicitation for certificate binders is ambiguous where challenged specification calling for one-dimensional die cuts cannot reasonably be interpreted also to permit two-dimensional right angle die cuts.

---

### DECISION

SPM Manufacturing Corporation protests certain alleged deficiencies in invitation for bids (IFB) No. 2FYS-BC-88-0010-S, issued by the General Services Administration (GSA) for various types of loose-leaf, ring, and data binders,

041892

each identified by a separate National Stock Number (NSN). The protester alleges that numerous specifications contained in the solicitation are inaccurate or ambiguous and that, therefore, equal competition is precluded.

We deny the protest.

SPM initially protested specifications concerning 10 NSNs under the IFB. In its conference comments, however, the protester states that GSA has adequately addressed its concerns with respect to five of those NSNs and has withdrawn a sixth from the IFB. Further, the agency has taken corrective action with respect to several other issues raised by the protester: (1) with respect to NSN 7510-00-965-2442, GSA has corrected a typographical error in the specifications as requested; and (2) with respect to NSN 7510-00-086-7550, GSA has clarified an internal inconsistency in the specifications and has provided the protester with a copy of a drawing referenced in the specification as requested. Accordingly, we will only address the remaining unresolved issues relating to four NSNs.<sup>1/</sup>

NSN 7510-00-965-2442; LOOSE-LEAF BINDER

SPM's challenge to the description of this item involves subparagraph 1.2.2 of Federal Specification UU-B-336D:

"Accessories. Accessories include suspension (hanger) bars (3.8), and replacement posts (3.9). Accessories shall be furnished as specified in the invitation for bids, contract, or order (see 6.2)."

The schedule of items in the solicitation does not mention accessories, it nowhere requires that they be provided, and it contains no place for submitting a bid price for them. Nonetheless, the protester argues that the "failure to address clearly in the solicitation whether (and which)

---

<sup>1/</sup> In its protest, SPM also raised concerns about the availability of samples and a requirement for recessing hinges on NSN 7510-00-965-2442. The agency report responded to these concerns but the protester did not address the matters at the conference or in its comments. We consider the issues abandoned. Jewett-Cameron Lumber Corp., et al., B-229582 et al., Mar. 15, 1988, 88-1 CPD ¶ \_\_\_\_. Also, in its conference comments, the protester questions the term "cover stubs" as it is used in the specification for NSN 7510-00-965-2442. We do not consider issues which are raised for the first time in conference comments when they could have been raised in the initial protest. Buckeye Pacific Corp., B-229582.9, Mar. 21, 1988, 88-1 CPD \_\_\_\_.

accessories may be required, while leaving open the possibility that individual orders may demand accessories, prevents bidders from bidding on an equal basis."

We find this argument to be without merit because it ignores the "Order of Precedence" clause which is incorporated into the IFB by reference. That clause resolves "[a]ny inconsistency" between the schedule of items and the specifications in favor of the schedule. Federal Acquisition Regulation (FAR) § 52.214-29. Moreover, the protester's speculation that GSA might attempt to place an order for accessories under a contract containing no prices for them is unreasonable when the IFB is read as a whole and in a reasonable manner. See Sunnybrook, Inc., B-225642, Apr. 10, 1987, 87-1 CPD ¶ 399.

NSN 7510-00-082-2667; LOOSE-LEAF BINDER

SPM's challenge to the description of this item involves a set of dimensions appearing on a drawing contained in Military Specification MIL-B-83931A. The protester argues that the dimensions could be interpreted to require that each end of the metal ring mechanism be located 1/4 inch from the end of the cover, or they could be interpreted to establish only the overall height of the cover, without imposing a requirement to locate the ring mechanism a certain distance from the end of the cover. SPM states that it believes that the latter interpretation should govern.

The protester alleges that GSA has been inconsistent in its interpretations regarding these dimensions, citing a 1986 disagreement between agency technical personnel and the contracting officer, together with an alleged difference between the statements of the contracting officer and GSA counsel in the agency report in this matter. Regarding the first assertion, in 1986, SPM's interpretation prevailed over that of the technical personnel when the matter was brought to the attention of the contracting officer. Regarding SPM's other assertion, the contracting officer, consistent with SPM's interpretation, states that the drawing does not specify a dimension for the distance between the end of the mechanism and the edge of the binder cover; in her allegedly inconsistent report on this issue, GSA's counsel states only that the 1/4 inch dimension in the drawing specifies the distance between the end of the backbone and the edge of the binder cover. We do not agree with SPM's contention that these statements are necessarily inconsistent. Moreover, since GSA agrees with and has followed SPM's interpretation, we fail to see how SPM has been prejudiced by the alleged discrepancy. Cardion Electronics--Request for Reconsideration, B-218566.4, Jan. 27, 1987, 87-1 CPD ¶ 89.

NSN 7510-00-086-7550; LOOSE-LEAF BINDER

The amended description of this binder in the schedule of items provides that it is to be made "[i]n accordance with Brookley AFB Drawing No. 62H25226." The schedule of items also contains a paragraph entitled "EXCEPTION TO DRAWING," which provides in pertinent part that the binder shall have a ring capacity of "1-1/4 inch nominal." While the drawing depicts a side view of an opened binder with a ring that appears smaller than the 1-1/4 inch size called for in the item description, a revision note on the drawing indicates that the diameter of the required ring has been changed since the drawing was first issued. Another notation on the drawing describing the binder ring refers to "1-1/4 in. rated capacity of paper." The drawing also contains a dimension (5/8 inch) which relates to the size of the binder's "backbone," and a pocket in which it fits, for a binder with a ring of the size as originally drawn. The drawing clearly labels the 5/8 inch dimension as approximate.

The protester maintains that it is impossible to fabricate a binder with backbone and pocket sizes consistent with the 5/8 inch dimension shown on the original drawing which also will accommodate a 1-1/4 inch ring. SPM further alleges that incumbent contractors, who have had the benefit of interpretations of what is acceptable during contract performance, are favored by the alleged discrepancy.

In our view, the protester's position is unreasonable when the IFB is interpreted as a whole. The section of the drawing at issue is clearly not intended to establish a single backbone size and a single pocket size for all binders respective of ring size changes. Rather, as noted above, the 5/8 inch dimension is clearly labeled as an approximate measurement. In comparison, both the drawing and the IFB specify a 1-1/4 inch size ring. Also, as discussed above, if any discrepancy in sizes between the drawing and the schedule of items were to exist, it would be resolved in favor of the schedule by operation of the "Order of Precedence" clause in the IFB. FAR § 52.214-29.

In any event, the protester's initial submission indicates that SPM has recently been a GSA contractor for the binder in question. By the terms of its own protest, the alleged discrepancy inures solely to the benefit of incumbents. We, therefore, fail to see how SPM has shown that it is prejudiced by its use. Cardion Electronics--Request for Reconsideration, B-218566.4, supra.

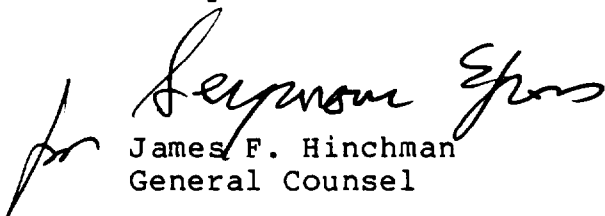
NSN 7510-00-134-8179; RETIREMENT CERTIFICATE BINDER

SPM protests the requirement in the item description which states "[f]our right angle corner die slots shall be die cut into each inside cover." The protester notes that the "slots are meant to allow the corners of a document, such as a retirement certificate, to be held in place by inserting the corners through the slots." The item description also provides that all such corner cuts shall be the same size--1-3/4 inches. It further provides that the slots "shall be designed so that certificates and protector sheets can be readily inserted."

The protester argues that this description is reasonably susceptible to two interpretations and that the resultant ambiguity precludes competition on an equal basis. The agency's position is that the item description calls for a holder with four diagonal slots across the corner which will accommodate the right-angle corners of a certificate. SPM offers an alternative interpretation of the item description, suggesting that the slots themselves are to be right angles. Under this interpretation, the vertices of the right-angle cuts all converge toward a central point on the holder.

We find SPM's argument to be without merit. SPM's alternate interpretation is at variance with that part of the specification which prescribes only one dimension for each required die cut--i.e., 1-3/4 inches; right angle-shaped cuts, as urged by the protester, would require two prescribed dimensions--one for each leg of the angle. Again, the protester's position does not reflect a reasonable reading of the solicitation as a whole. Sunnybrook, Inc., B-225642, supra. Moreover, even assuming that the specification reasonably permits two alternative methods of constructing a certificate holder, we do not believe that the protester has shown competitive prejudice as a result. There has been no showing, for example, that right angle die cuts are significantly more or less expensive to make than diagonal die cuts, or that the alleged ambiguity affected SPM's preparation of its bid in any other significant way. See Aaron Refrigeration Services, B-217070, Apr. 17, 1985, 85-1 CPD ¶ 437.

The protest is denied.

  
James F. Hinchman  
General Counsel